

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alfredo Gonzalez	Team: Squad #3	CCRB Case #: 201609389	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/31/2016 11:55 PM	Location of Incident: [REDACTED]	Precinct: 06	18 Mo. SOL 4/30/2018	EO SOL 4/30/2018	
Date/Time CV Reported Thu, 11/10/2016 5:26 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 11/10/2016 5:26 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Dones	27390	948203	006 PCT
2. Officers			
3. POM Joseph Branca	02629	960274	006 PCT
4. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Dones	Abuse: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, Police Officer Jonathan Dones stopped § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Joseph Branca	Abuse: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, Police Officer Joseph Branca stopped § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Jonathan Dones	Force: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D. Officers	Force: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E. An officer	Abuse: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, an officer threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Jonathan Dones	Off. Language: At the 6th Precinct stationhouse and at Healthplex in Manhattan, Police Officer Jonathan Dones made remarks to § 87(2)(b) [REDACTED] based upon his gender.	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

§ 87(2)(b) filed this complaint with the CCRB, in person, on November 10, 2016.

On October 31, 2016, at approximately 8:30 p.m., § 87(2)(b) his stepfather, § 87(2)(b) his step brother, § 87(2)(b) his coworker, § 87(2)(b) and two female cousins went to the Halloween parade near Bleecker Street in lower Manhattan. After spending some time in the area, § 87(2)(b) and his party decided to leave and began walking towards the A train subway station. § 87(2)(b) needed to urinate, so he went into an alley on Bleecker Street, approximately 20 feet away from the street, and urinated. Afterward, § 87(2)(b) returned to his party and continued walking towards the subway. Approximately one block away from where he had urinated, at Bleecker Street and Macdougall Street, § 87(2)(b) was stopped by PO Jonathan Dones and PO Joseph Branca, who asked § 87(2)(b) for his ID (**Allegations A and B**). § 87(2)(b) did not provide his ID, but ran from the officers instead. PO Dones and additional officers pursued § 87(2)(b) and tackled him to the ground. While on the ground, an officer allegedly punched § 87(2)(b) in his torso several times and kneed him in his back a few times (**Allegations C and D**). After § 87(2)(b) was placed in handcuffs, he heard an officer allegedly threaten to arrest § 87(2)(b) (**Allegation E**). § 87(2)(b) was then transported to the 6th Precinct stationhouse. At the stationhouse, PO Dones allegedly told § 87(2)(b) to “man up” and to “stop being a little bitch” (**Allegation F**). § 87(2)(b) requested medical attention for his asthma after he had a physical altercation with a fellow prisoner and was subsequently transported to an urgent care facility. At the facility, PO Dones allegedly told § 87(2)(b) once more to “man up” and to “stop being a little bitch” (within **Allegation F**). PO Branca did not prepare a memo book entry related to this incident (**Allegation G**). § 87(2)(b) was arrested for § 87(2)(b).

There was no video footage available for this incident.

This case went over the 90-day benchmark because of delays in receiving NYPD documentation and delays in obtaining § 87(2)(b)'s medical records.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation due to § 87(2)(b)'s arrest.
- As of March 9, 2017, § 87(2)(b) has not filed a Notice of Claim against the City of New York (BR 01).
- § 87(2)(b) (BR 02).

Civilian's and Officer's CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (BR 03).
- PO Dones has been a member of the NYPD for seven years. He has been the subject of three previous allegations stemming from three cases, with no substantiated allegations. § 87(2)(g)
- PO Branca has been a member of the NYPD for one year. This is his first CCRB complaint.

Potential Issues

- § 87(2)(b) stated that he had cellphone video of the incident, which had been taken by one of his cousins, but he was unresponsive to the CCRB's attempts to obtain it.
- § 87(2)(b) identified several potential witnesses to the incident, but only provided the full names and contact numbers for two of them, § 87(2)(b) and § 87(2)(b). § 87(2)(b) was contacted and he stated that he did not want to be involved with the CCRB's investigation, and § 87(2)(b) was unresponsive to the CCRB's contact attempts. § 87(2)(b) was unresponsive to requests for him to provide the other individuals' contact information.
- The investigation has not yet received medical records from § 87(2)(b) the facility to which § 87(2)(b) was transported while he was under arrest. § 87(2)(g). The investigation did receive medical records from § 87(2)(b) which § 87(2)(b) visited on § 87(2)(b).

Findings and Recommendations

Explanation of Subject Officer Identification

- PO Dones and PO Branca were unable to identify any of the officers that assisted in physically apprehending § 87(2)(b) because the incident occurred during the Halloween Parade and officers from various commands were part of that detail. § 87(2)(b) was unable to provide any identifying information about the officers, save that they were white males. The investigation interviewed three white male officers that were posted near the incident location (according to the detailed roster); however, none of the officers had any independent recollection of being involved in § 87(2)(b)'s arrest. Given the absence of any information that could help identify the other officers that were involved, a general force allegation has been pleaded against "officers."
- § 87(2)(b) alleged that an officer in a white shirt threatened to arrest § 87(2)(b) at the arrest location. § 87(2)(b) did not want to participate in the investigation, and without a statement from him, the investigation was unable to obtain crucial information that would assist in solidly identifying the officer that allegedly threatened to arrest him. Furthermore, the only lieutenant listed in the 6th Precinct's roll call during the time of the incident was assigned to the desk. Based on the above, the threat of arrest allegation has been pleaded against "an officer."

Allegations Not Pleaded

- **Abuse of Authority:** PO Dones stated that he informed § 87(2)(b) that he could arrest him for not having his ID. § 87(2)(b) did not make this allegation and § 87(2)(b) was, in fact, subsequently arrested. Therefore, a threat of arrest allegation has not been pleaded.
- **Abuse of Authority:** § 87(2)(b) alleged that he requested medical attention from PO Dones because he was in pain when his arrest was being processed, but was not immediately provided with it. § 87(2)(b) however, was eventually transported to the hospital after getting into a physical altercation with another prisoner. Given that § 87(2)(b) was provided with medical treatment, a refusal to provide medical attention allegation has not been pleaded.

Allegation A – Abuse of Authority: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, Police Officer Jonathan Dones stopped § 87(2)(b)

Allegation B – Abuse of Authority: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, Police Officer Joseph Branca stopped § 87(2)(b)

§ 87(2)(b) was in the vicinity of Bleecker Street and Macdougall Street in Manhattan for the Halloween parade with § 87(2)(b) and two unidentified female cousins. After some time in the area, § 87(2)(b) and his party wanted to leave because the area was “too rowdy” and because they had observed several fights. § 87(2)(b) and his party were heading to the A subway train line to return home, but § 87(2)(b) needed to urinate and he went into an alley to do so. § 87(2)(b) urinated between two vehicles, approximately 20 feet away from Bleecker Street. Afterward, § 87(2)(b) joined his party and continued towards the station. Approximately one block away from where he had urinated, § 87(2)(b) was tapped on his shoulder. When he turned around he observed PO Dones, who then stated, “Let me see your ID.” § 87(2)(b) asked him why he needed to see his ID, but PO Dones did not respond (BR 04).

PO Dones stated that he and PO Branca were doing a Halloween detail in the vicinity of Bleecker Street and Macdougall Street when he and PO Branca observed § 87(2)(b) urinating behind a vehicle near the corner of Bleecker Street and Macdougall Street. PO Dones was approximately 15 feet away from § 87(2)(b) when he observed him urinating. After § 87(2)(b) finished, PO Dones and PO Branca approached him at the above-mentioned corner. PO Dones requested § 87(2)(b)'s ID because he observed him urinating in public, but § 87(2)(b) informed him that he did not have his ID. PO Dones informed § 87(2)(b) that he could be arrested for not producing an ID, and asked him if he had any form of identification. § 87(2)(b) looked at PO Dones, and then began running away (BR 05). PO Branca's testimony was generally consistent with PO Dones (BR 06).

§ 87(2)(b)'s arrest report noted that PO Dones observed § 87(2)(b) urinating in a public street in open view. PO Dones then asked § 87(2)(b) for his ID to issue him a summons but § 87(2)(b) refused and ran on foot onto a public street (BR 12).

No swill, brine, offensive animal matter, noxious liquid, or other filthy matter of any kind, shall be allowed by any person to fall upon or run into any street, or public place, or be taken to or put therein. NYC Administrative Code, §16-118 (6) (BR 07). An officer may stop an individual if he or she has reasonable suspicion that the individual has committed, is committing, or is about to commit a crime. People v. Debour, 40 N.Y.2d 210 (1976) (BR 08).

It is undisputed that § 87(2)(b) urinated in public, in violation of NYC Administrative Code 16-118 (6). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation C – Force: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)

Allegation D – Force: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, officers used physical force against § 87(2)(b)

After PO Dones requested his ID, § 87(2)(b) stated that he began to walk away. There were several individuals in costume as police officers and he believed that PO Dones was playing a prank on him because PO Dones did not answer when § 87(2)(b) asked him why he needed his

ID. PO Dones did not state anything to § 87(2)(b) as he walked away. § 87(2)(b) took approximately five steps when a “fight” broke out (though § 87(2)(b) acknowledged that he did not observe an actual fight occur), and then heard several individuals yell, “Run.” § 87(2)(b) was on the sidewalk when PO Dones initiated the stop, but he ran across the street when the “fight” occurred. Afterward, § 87(2)(b) turned around and saw approximately eight uniformed officers pursuing him. § 87(2)(b) stopped and put his hands up, but he was tackled to the ground by the officers. While on the ground and on his stomach, an officer proceeded to punch § 87(2)(b) on his side at least six or seven times with a closed fist. § 87(2)(b) put his hands over his head to cover himself, so he was unable to see which officer punched him. § 87(2)(b) also stated that he felt a lot of pressure from multiple officers and several knees on his back, his legs, and the back of his neck. § 87(2)(b) initially mentioned that he was kicked a few times, but he could not specify where or how many times he was kicked. § 87(2)(b) later clarified that officers had actually kned him a few times in his arms and back instead of kicking him. § 87(2)(b) could not specify which officers used physical force against him because all eight officers were on top of him. Approximately 20 seconds after being taken to the ground, § 87(2)(b) was handcuffed and picked up off the ground. § 87(2)(b) was then placed in an RMP and transported to the 6th Precinct stationhouse. § 87(2)(b) denied that he resisted his arrest or that he tried to fight back. § 87(2)(b) also stated that the officers had not issued him any commands prior to taking him to the ground and they did not issue him any commands while he was on the ground. § 87(2)(b) alleged that he sustained a fractured left ankle, a bruised knee, and heavy swelling on his left arm. § 87(2)(b) also stated that he has back problems due to the incident. When asked how he sustained the above-mentioned injuries, § 87(2)(b) was unable to pinpoint an exact moment when he sustained them, but he believed they occurred when he was on the ground and officers were applying pressure to various parts of his body with their knees. § 87(2)(b) stated that he had not consumed any drugs or alcohol prior to being stopped (BR 04).

PO Dones stated that § 87(2)(b) fled, ran “in and out” of the street, and went over several police barriers. § 87(2)(b) eventually went towards the northeast corner of Bleecker and Macdougal Street, at which point he stopped and “[went] to the ground” on the sidewalk. No commands were issued during the pursuit. PO Dones estimated that the pursuit lasted five minutes. When asked whether § 87(2)(b) went to the ground by himself or whether officers took him to the ground, PO Dones stated that he did not observe officers take § 87(2)(b) to the ground. PO Dones also noted that other officers made physical contact with § 87(2)(b) before he did, and PO Dones only made physical contact with § 87(2)(b) after he was already on the ground. PO Dones commanded § 87(2)(b) to give up his arms and to put them behind his back, but § 87(2)(b) did not comply and resisted by “flaring” his arms back and forth and by putting them above his head and underneath his body. Eventually, PO Dones managed to grab § 87(2)(b)'s arms and to handcuff them behind his back. The officers that assisted were holding § 87(2)(b) down while PO Dones grabbed his arms. PO Dones did not recall if any other type of force was needed to overcome § 87(2)(b)'s resistance. PO Dones denied punching or kneeling § 87(2)(b) and he did not observe any other officer do so. After § 87(2)(b) was handcuffed, PO Dones did not observe any injuries on him. § 87(2)(b) was placed in an RMP and transported to the 6th Precinct stationhouse. PO Dones did not observe any fights occur simultaneously to § 87(2)(b)'s arrest. § 87(2)(b) did not appear to be under the influence of any alcohol or drugs, but § 87(2)(b) later informed PO Dones that he had been drinking “a little bit” earlier that day (BR 05).

The Threat, Resistance, and Injury Report prepared by PO Dones noted that § 87(2)(b) resisted arrest by fleeing and by wrestling/grabbing with officers. The report also noted that PO

Dones used hand strikes and a forcible takedown to overcome § 87(2)(b)'s resistance. When asked about the hand strikes during his interview, PO Dones emphasized that the forms were new and that he indicated "yes" in the hand strike section in reference to grabbing § 87(2)(b)'s arms (BR 05, 09).

PO Branca stated that he pursued § 87(2)(b) after he fled, but fell behind. PO Branca was attempting to catch up to § 87(2)(b) and the other officers when he observed § 87(2)(b) and officers go to the ground. PO Branca did not know how § 87(2)(b) went to the ground, but stated that he observed § 87(2)(b) and the officers fall to the ground at the same time. PO Branca estimated that five to ten officers assisted in apprehending § 87(2)(b). PO Branca was approximately ten feet away from § 87(2)(b) when other officers made physical contact with him. Because several officers were assisting in apprehending § 87(2)(b), PO Branca turned around and did crowd control. PO Branca did not observe when § 87(2)(b) was placed in handcuffs. PO Branca stated that a crowd of approximately 20 people had formed and that he commanded them to stay back. PO Branca denied having any physical contact with § 87(2)(b) and he did not observe any officer punch or knee § 87(2)(b) while he was on the ground. When asked if § 87(2)(b) seemed to be intoxicated or under the influence of drugs, PO Branca stated that he seemed intoxicated because he smelled of alcohol (BR 06).

§ 87(2)(b)'s arrest report noted that § 87(2)(b) ran on foot onto a public street with ongoing traffic and resisted arrest by flailing his arms and then placing them underneath his body to prevent PO Dones from handcuffing him (BR 12). The command log entry for § 87(2)(b)'s arrest noted that § 87(2)(b) was intoxicated and refused medical attention (BR 13). The Medical Treatment of Prisoner Report noted that § 87(2)(b) complained of asthma, of right knee pain, and of back pain (BR 10).

According to § 87(2)(b)'s medical records from November 5, 2016, § 87(2)(b)'s chief complaint was pain to his left forearm, right knee, and lower back, which he sustained from an altercation with the NYPD. § 87(2)(b) informed medical staff that he was shoved to the ground by officers, forcefully had his arms pinned against his head with knees pushed against his right side and back. Staff noted that § 87(2)(b)'s right knee had mild swelling. There was no tenderness to § 87(2)(b)'s ankle. § 87(2)(b) received x-rays of his chest, right ribs, right knee, lumbar spine, left forearm, and right foot. The x-rays did not reveal any fractures or dislocation. The x-ray of § 87(2)(b)'s right foot also showed evidence of a prior injury, but there was no dislocation to it (Privileged Document).

An officer must use only the reasonable force necessary to gain control or custody of a subject. NYPD Patrol Guide, Section 221-01 (BR 11).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Allegation E – Abuse of Authority: In the vicinity of Bleecker Street and Macdougall Street in Manhattan, an officer threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that after he had been handcuffed, he heard a lieutenant threaten to arrest § 87(2)(b). The CCRB contacted § 87(2)(b) but he expressed that he did not want to participate in the investigation.

§ 87(2)(g)

Allegation F – Offensive Language: At the 6th Precinct Stationhouse and at the Healthplex in Manhattan, Police Officer Jonathan Dones spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that as his arrest was being processed, he asked PO Dones for an ambulance because he was in pain. PO Dones then allegedly told § 87(2)(b) to “man up,” to stop being a “little bitch,” and to stop complaining. One to two hours after arriving at the stationhouse, a drunken defendant was brought into the stationhouse and placed inside the holding cell with § 87(2)(b). At some point, the drunken male spat at § 87(2)(b) which led to § 87(2)(b) and the drunken male getting into a physical altercation. Officers then intervened and separated the two. § 87(2)(b) acknowledged that he started the physical altercation. The drunken individual sustained a bruise to his face and § 87(2)(b) sustained a knot to the back of his head. Afterward, an ambulance was called for both § 87(2)(b) and the drunken individual and they were transported to an urgent care facility separately. § 87(2)(b) stated that he was transported to the urgent care facility because he is a chronic asthmatic and the altercation had caused him shortness of breath. PO Dones accompanied § 87(2)(b) inside the ambulance. While at the urgent care facility, PO Dones allegedly told § 87(2)(b) once more to “man up” and to stop being “a little bitch” (BR 04).

PO Dones stated that he processed § 87(2)(b)'s arrest at the stationhouse and placed him inside the holding cell with other prisoners. PO Dones stated that § 87(2)(b) was angry and made comments stating that the other prisoners were “punks” and not to put him next to anyone. § 87(2)(b) also stated, “Hopefully no one says anything to me or I’m going to punch them out.” While at the stationhouse, § 87(2)(b) did not complain of any pain or injuries and did not request medical attention. PO Dones denied that he told § 87(2)(b) to “man up” or that he called him a “little bitch,” and he did not hear any other officer do so. Eventually, another prisoner was placed inside the cell with § 87(2)(b). Approximately 15 minutes later, PO Dones heard screaming coming from the cells and observed § 87(2)(b) on top of the prisoner, punching him repeatedly in his head with a fist. PO Dones opened the cell’s door, at which point § 87(2)(b) stopped fighting.

The prisoner sustained a laceration and bruising to his head, while § 87(2)(b) sustained a laceration near his knuckles. PO Dones then requested an ambulance for § 87(2)(b) due to his laceration and he accompanied him to the urgent care facility. PO Dones denied that he told § 87(2)(b) to man up and he denied calling him a “little bitch” at the facility (BR 05).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Squad: _____

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date